



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, SUPSHIP Gulf Coast Detachment Mobile at AUSTAL, USA, Mobile, AL; Restricted Area

AGENCY: U.S. Army Corps of Engineers, DoD

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is amending an existing restricted area to reflect changes in responsible parties for the restricted area established around the AUSTAL, USA shipbuilding facility located in Mobile, Alabama. The Supervisor of Shipbuilding, Conversion and Repair, United States Navy (USN), Gulf Coast (SUPSHIP Gulf Coast) assumed the duties of administering new construction contracts at AUSTAL USA in Mobile, AL, on October 9, 2011, replacing the Supervisor of Shipbuilding, Conversion, and Repair, USN, Bath (SUPSHIP Bath). The Department of the Navy requested an amendment to the regulation to reflect the change in responsible parties. There are no other changes for this restricted area regulation.

DATES: Effective date: [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David Olson), 441 G Street NW, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922

or Mr. Donald E. Mroczko, U.S. Army Corps of Engineers, Mobile District, at 251-690-3185.

SUPPLEMENTARY INFORMATION: The Supervisor of Shipbuilding, Conversion and Repair (SUPERVISOR), USN, Gulf Coast (SUPSHIP Gulf Coast) assumed the duties of administering new construction contracts at AUSTAL USA in Mobile, AL, on October 9, 2011, replacing the Supervisor of Shipbuilding, Conversion, and Repair, USN, Bath (SUPSHIP Bath). The SUPERVISOR is responsible for United States Navy shipbuilding activities at AUSTAL, USA located in Mobile, Alabama. In accordance with Department of Defense and Department of the Navy guidance, the SUPERVISOR is responsible for the antiterrorism efforts and force protection of Department of the Navy assets under his or her charge. As such, the restricted area was established on September 22, 2009 (see 74 FR 48151). There are no changes to the limits of the restricted area.

The proposed rule was published in the December 2, 2011, edition of the Federal Register (76 FR 75508) and the regulations.gov docket number was COE-2011-0034. In response to the proposal, one comment was received. The commenter stated that the proposed rule will have no effect on historic properties.

In response to a request by the United States Navy, and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps is amending 33 CFR 334.782 by changing the responsible party from SUPSHIP Bath to SUPSHIP Gulf Coast.

#### Administrative Requirements

a. Review Under Executive Order 12866. This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act. The rule has been reviewed under the Regulatory Flexibility Act (Public Law 96-354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps determined that the restricted area amendment will have practically no economic impact on the public, no anticipated navigational hazard, and no interference with existing waterway traffic. This rule will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act. This rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. An environmental assessment has been prepared. It may be reviewed at the District office listed at the end of the FOR FURTHER INFORMATION CONTACT section, above.

d. Unfunded Mandates Act. This rule does not impose an enforceable duty among the private sector and, therefore, is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Public Laws 104-4, 109 Stat. 48, 2 U.S.C. 1501 et seq.). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rule.

List of Subjects in 33 CFR Part 334

Danger Zones, Navigation (water), Restricted Areas, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR Part 334 as follows:

PART 334 – DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 226 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Revise the section heading and paragraphs (b) and (c) of § 334.782 to read as follows:

§ 334.782 SUPSHIP Gulf Coast, Pascagoula, Mississippi, Detachment Mobile, Alabama at AUSTAL, USA, Mobile, Alabama; restricted area.

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(b) The regulations. (1) All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the U.S. Coast Guard and local or State law enforcement vessels are prohibited from entering the restricted area without permission from the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, Mississippi or his/her authorized representative.

(2) The restricted area is in effect twenty four hours per day and seven days a week.

(3) Should warranted access into the restricted navigation area be needed, all entities are to contact the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, Mississippi, or his/her authorized representative on Marine Communication Channel 16.

(c) Enforcement. The regulation in this section shall be enforced by the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, Mississippi, and/or such agencies or persons as he/she may designate.

Dated: July 16, 2012

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Richard C. Lockwood

Chief, Operations and Regulatory

Directorate of Civil Works

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